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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,145	01/11/2002	Michihiko Yonetsu	IS-US000799	5811

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SHINJYU GLOBAL IP COUNSELORS, LLP  
1233 20TH STREET, NW, SUITE 700  
WASHINGTON, DC 20036-2680

[REDACTED] EXAMINER

GIBSON, RANDY W

ART UNIT	PAPER NUMBER
2841	

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/042,145	YONETSU, MICHIIHIKO
	Examiner Randy W. Gibson	Art Unit 2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
  - 5) Claim(s) \_\_\_\_\_ is/are allowed.
  - 6) Claim(s) 1-5, 7, 8, 10-17, 19 and 20 is/are rejected.
  - 7) Claim(s) 6, 9 and 18 is/are objected to.
  - 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11 January 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed July 11, 2003 have been fully considered but they are not persuasive. Applicant appears to be arguing that the independent claims require that combinational calculations are carried out with only the hoppers of the second group, not both the first and second groups. However, the examiner cannot find the word "only" anywhere in the independent claims, and the applicant did not seem to point to any specific claim language that unambiguously states that only the hoppers of the second group are being selected by the combinational calculating means. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 7, 8, 12-17, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Douglas et al (U.S. # 4,813,503). Douglas et al disclose the claimed invention including a plurality of hoppers which are divided into a first group (26) and a

second group (38), a selection means (18), a memory means for dividing the hoppers into first and second groups (See column 4, lines 12-53 – note that the controller 18 is reprogram-able to accommodate more secondary weigh hoppers which implies a memory to store the program), a selection means for switching between first and second modes (Col. 5, lines 1-13), a means for subtracting the weight of the first group of hoppers from the total weight (Col. 3, lines 7-12), and a way of switching the secondary hopper between a continuous discharge mode and another discharge mode (Col. 4, lines 22-28).

4. Claims 1-3 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitsuru et al (JP H05-079890). The "injection hopper 2a" and the "injection hopper 2b" feed into two sets of measurement hoppers (7) thus forming two groups of hoppers. Control section (20) which is the "selection means", is divided into two combinational processing sections (21a, 21b), the "selection means", each of which contains a CPU with its own "memory" storage unit for storing the result of the combinational weighing operation of its group of hoppers (see "Example" section, [0015])

5. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Mikami et al (U.S. # 4,844,190). See abstract.

6. Claims 1-3, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Mosher (U.S. # 4,678,046). See abstract, column 2, lines 3-6, and column 4, line 23 to col. 5, line 54.

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Pringle et al (GB # 2,147,111 A). See abstract.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Douglas et al (U.S. # 4,813,503) in view of Konishi et al (U.S. # 5,753,867). As discussed *supra*, Douglas et al disclose the claimed invention except for the continuous discharge mode. However, Konishi et al teach that it is known to set a combinational weighing machine in a continuous discharge mode to facilitate cleaning (Column 1, lines 39-55). It would have been obvious to program the device of Douglas et al to include a continuous discharge mode as is common in the art to facilitate cleaning.

**Conclusion**

10. Claims 6, 9, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (703) 308-1765. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on (703) 308-3121. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-5115.

July 29, 2003



Randy W. Gibson  
Primary Examiner  
Art Unit 2841